

**MINUTES OF THE
MEDICAL MARIJUANA STAKEHOLDER MEETING
February 19, 2014**

The Medical Marijuana Stakeholder Meeting was called to order by Marla McDade Williams at 10:00 a.m. on Wednesday, February 19, 2014, in the Legislative Building, Room 4100, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer Building, 555 E. Washington, Las Vegas, NV. Offsite attendees accessed the meeting through a conference call number or the Internet.

STAFF MEMBERS PRESENT:

Marla McDade Williams, Deputy Administrator
Chad Westom, Bureau Chief
Steve Gilbert, Program Officer
Kelly Bown, Consultant
Jaclyn March, Consultant
Joseph Theile, Management Analyst
Sara Weaver, Administrative Assistant

OTHERS PRESENT:

Walter Marting	Megan Salcido	Eric Edgerton	Jess Costello
Jake Ward	David Stone	Harry Irwin	Dawn Johnson
Deb Geary	Mead Dixon	Lindsay Wheeler	Greg Syabalian
Margo Cline	Rebecca Gasca	Dagny Stapleton	Taylor Snell
Johnny Stoyer	Pat Coward	Joe Gilbert	Eric Spratway
Wes Henderson	Gary Lambert	John Sutton	Shane Johnson
Paris Balaouras	Tommy Lynn	Edwin Los	Rachel Hahnfeld
Larry Britz	Jeffrey Whitehead	Delos Benedict	Clay Gustafson
Joe Candella	Thomas Candella	Scott Oelke	Jonathan Hale
Robert Wilson	Chris Francy	Peter Krueger	Brandon Parcell
Kevin Kinsely	Louis Shugart	Warren Markowitz	Lisa Mayo
Derek Connor	Doug Kuperman	Sharlene Lewis	Michael Betts
John McCann	Mike Higgins	Vicki Higgins	Matt Walker
Julie Monteiro	Cindy Sue Alexander	Chuck Callaway	Lizette Matos
Todd Case	Martina Jaccarino	Bill Stockman	Karen Becker
Susan Johnson	Brittany Arane	Dennis Nowakowski	Paul Larsen
Samantha Antone	Sara Akins	Barry Stieb	Bruce Gale
Kathy Gillespie	William Horne	Gus Coller	Tisha Black
Michael McAuliffe	Gordon Katz	Scott Lopez	Ken Lowery
Bob Roshak	Jack Ornelas	Michael Levinsohn	Jason Weiner
Dan Schinhofen	James Barlow	Jeff Harrison	Robert Summers
Steve Fox	Chris Hempel	John Sande	Kimber Luciano
Adam Mintz	Ed Alexander	John Gezelin	

Marla McDade Williams:

The Medical Marijuana Stakeholder Meeting is open.

Our intention today is to review the proposed regulations for medical marijuana as they were redrafted by the Legislative Counsel Bureau (LCB). We want to answer as many questions as we can; however, this is not an opportunity for us to take comments regarding amendments to the regulations. We considered comments submitted during several public workshops and stakeholder meetings, and we made appropriate revisions to the regulations concerning those comments. We are open to your concerns about the redrafted regulations, but the only amendments we will support before the State Board of Health (SBOH) will be those that are of a technical nature. In addition, we want to offer clarification on the redrafted regulations.

Next, Chad Westom, Bureau Chief, will provide programmatic updates.

Chad Westom:

The Division is involved in many activities to fulfill what the Nevada Revised Statutes (NRS) require. It is our hope that the regulations will be adopted by the SBOH in March.

We have received approval for 12 staff positions from the Interim Finance Committee. The positions are currently being developed by the Division of Human Resource Management. Specifically, the staff will run the Medical Marijuana Establishment (MME) certification and inspection program. There will be offices in Carson City and in Las Vegas.

We have performed a workload analysis pertaining to the applications we anticipate receiving. This analysis indicates we will initially need additional staff to handle the influx of applications. These will be temporary staff positions.

We are in the process of developing the necessary forms for the MME application process. We are making good progress with forms development.

For the benefit of applicants, we will be posting enhanced FAQs [Frequently Asked Questions] on our website that include information pertaining to the regulations and applications.

Ms. McDade Williams:

We have received numerous inquiries as to whether local governments will ask the Division to delay its application process. To date, we have not received any formal requests from any local government regarding this issue. As soon as the Division has its staff in place, we will continue to move forward. I will give an overview of sections 23 through 28.

Section 23, subsection 1 requires one person to be designated as the person responsible “to provide information, sign documents or ensure actions are taken.” This provision is very important when working with the Division. The Division will work through this one individual, and if the individual is non-responsive, it will jeopardize the establishment’s certificate.

In section 24, issues related to owners will be decided on a case-by-case basis.

Section 25 explains the application solicitation process. Section 25, subsection 2 specifies that point values will be identified when notice is given that the Division will solicit applications. Although not specified in the regulations, when the solicitation is announced, it will also identify whether applications must be postmarked within the 10-day period or physically received in a specified office of the Division.

In section 26, there are two references to an “attestation.” Attestations can be used to disqualify an applicant or revoke a certificate if it is found that information was attested to and was not accurate. In section 26, subsection 3(b), we have received many questions about the “source” of liquid assets. Applicants need to provide as much confirmable detail as possible related to how the money was originally obtained. The Division will not provide advice on how to delineate this information or on whether a source is acceptable or unacceptable. Decisions in this regard will be made by the Division on a case-by-case basis as applications are reviewed.

Similarly, in section 26, subsection 4 there have been many questions about the “evidence of the amount of taxes paid to, or other beneficial financial contributions made to, this State or its political subdivisions...” Applicants will need to do the best they can to identify documentable tax contributions. As it relates to “other beneficial financial contributions,” applicants should justify and demonstrate how such contributions were beneficial.

Section 26, subsection 5, paragraph (b) requires applicants to identify certain information about each owner, officer, and board member. The information will assist the Division in understanding an establishment. Further, in some cases, the information will help identify whether a proposed owner, officer, or board member has a potential conflict that could jeopardize the application. It will be necessary to understand the regulations and any potential conflicts as they relate to any of the categories.

Section 26, subsection 6, paragraphs (b) and (c) require that narrative descriptions of certain areas as well as resumes for each owner, officer, and board member be submitted with applications. All of this information is subject to verification and authentication. Any false information can be used to disqualify an applicant or revoke a certificate.

Section 26, subsection 8 makes reference to an integrated plan for the “care, quality and safekeeping of medical marijuana from seed to sale . . .” The law allows the Division to issue certificates to four different types of establishments, and it does not specify that a dispensary must be co-owned with a cultivation establishment; however, each establishment still has the obligation to identify how it will meet the requirements from seed to sale. The Division will not advise any applicant on how to meet the requirements but will expect that this requirement is included in the application.

Section 26, subsection 11 has the provisions related to the start-up as well as the day-to-day operations of the establishment. The Division expects that owners, officers, and board members

fully intend to operate in the manner specified in response to this subsection. There will be a temptation to use a template borrowed from someone else's operation. If that is done, the Division advises reading it fully, changing names so it reflects the applicant's establishment, and ensuring a full understanding of each provision put forward. We find that establishments face the most trouble during inspections when they do not fully implement policies they put forward. Not understanding one's own policies and carrying them out as indicated could result in disciplinary action of the establishment. Remember, the response in this subsection must comply with these regulations and the NRS. An applicant can go beyond the regulations and statutes; however, applicants will be held accountable, during inspections, to understand and carry out all the aspects of what was identified on the application in response to this subsection.

If a local government limits the number of establishments it will authorize in its jurisdiction, section 28, subsection 1 specifies four areas that will be reviewed to determine which applications to continue reviewing.

There has been a lot of discussion about whether local governments will allow establishments, not allow them, or require prior approval in spite of the requirement in the regulations to rank applicants. Nothing formal has been received at this time from any local government indicating a decision one way or another. Therefore, pursuant to this version of the regulations, if a local government prohibits an establishment in its jurisdiction, such as has been done in Lyon County for its unincorporated areas, the Division must still accept the application and rank it. If an applicant meets the minimum requirements of the Division and the Division ranks it accordingly, the application will be forwarded to Lyon County, and Lyon County will need to deny the application. At the point that Lyon County denies the application, the Division will then deny it as well. When we solicit applications, we will identify what the requirements are from the local governments as best we can. Applicants must be aware that the application fee is non-refundable; if an applicant chooses to submit an application for an establishment in a jurisdiction where MMEs are prohibited, the application fee will not be refunded to the applicant.

Section 28, subsection 3 relates to the criminal history of an applicant or person who is proposed to be an owner, officer, or board member. The language, as drafted by the LCB, is different and we are working to resolve this issue currently. The language may be revised if we move forward with a technical change.

Section 29, subsection 2 specifies the criteria the Division will use to determine the applicant who ranks higher in the case of a tie.

Lisa Mayo:

I attended the City of Las Vegas Planning Commission workshop last week. There still seems to be an open issue regarding the number of cultivation facilities that will be allowed. There is a limit on dispensaries, but there does not seem to be any information on how many grow-facility applications will be approved. Can you address this issue?

Ms. McDade Williams:

As you know, the law allows us to determine the number of cultivation facilities; however, we have determined that we will not announce the number. The number of cultivation facilities allowed will be based on the number of applications received. This is still an open-ended issue. The Division does not believe that every cultivator will produce the same product, so we feel we have an obligation to ensure there is adequate representation of product for patients in the State. That will be part of our decision-making process—to ensure we have adequate representation. We are also hoping that local governments provide some guidance to the Division on what will be acceptable or unacceptable within their jurisdictions. We want to avoid misleading anyone as we put applications forward. At this point, we intend to base decisions on what the universe will look like in the State based on the number of cultivation-facility applications submitted. The goal is to have a broad inventory for patients in the State.

Mr. Westom:

We want the number of cultivation facilities open ended to ensure that the production in the State is adequate for patients. As we receive applications, we will be looking at cultivation-facility operations and how much product each facility produces. If we have applicants that are very small operations but they are well run and the operation is in the best interest of the State, there may be more establishments. There may be very large, well-operated facilities, so there may not be the need for additional facilities. This is something that will be reviewed as we receive applications.

Brandon Parcell:

Section 26, subsection 2, paragraph (d) states that the applicant must register with the Secretary of State as the appropriate type of business. Are there specifics as to what type of business we have to register?

Ms. McDade Williams:

There are not.

Mr. Parcell:

Will there be any specifics made available?

Ms. McDade Williams:

That will be up to the applicant's business operation. We want to ensure that applicants are registered appropriately with Secretary of State as a business in Nevada.

Bruce Gale:

In section 25, subsection 1, paragraph (b), does that mean, since I am on the LISTSERV, I will receive an email indicating that the 45 days has begun and applications are being accepted? In other words, I will not have to refer to section 25, subsection 1, paragraph (a) and go on the Division's website every day or, in paragraph (b), go in the Legislative Building.

Ms. McDade Williams:

That is the intent. We are sending messages through our LISTSERV, but we are still hearing from people that they are not receiving notifications. Interested parties need to make sure that their email servers allow our emails to be delivered. For example, if one did not receive notice of the stakeholder meetings, one needs to check with their Internet server to ensure receipt of our messages. However, it will not be acceptable to claim you did not receive a message that may have been sent via the LISTSERV.

Mr. Gale:

Section 26, subsection 7 refers to "...documentation concerning the adequacy of the size...including, without limitation, building and construction plans with supporting details." If an applicant owns or has consent from the property owner regarding the real property, but there is no structure built yet, can the State consider and grant the application based on the plans or does there need to be an existing structure?

Ms. McDade Williams:

We can accept applications based on the plans. The key is to ensure the property owner or whoever owns the lease understands the establishment will be housed in that location.

Mr. Gale:

Section 28, subsection 3 addresses the criminal history of a potential owner or officer. In reading this section, it is my understanding that the term "disqualify" pertains to excluded felony offenses as defined in Senate Bill (SB) 374. Does this term relate to any other potential crimes?

Ms. McDade Williams:

Correct. This term refers only to those referred to in SB 374.

Warren Markowitz:

I represent CBD Partners. Section 25, subsection 1 states, "...a sufficient number of medical marijuana establishments..." How will this be determined and what is the basis for this requirement?

Ms. McDade Williams:

As related to dispensaries, if the dispensary closed or if there were a certificate revoked, we would solicit applications because there would be a vacancy in the number of dispensaries. We want to see that the maximum numbers of dispensaries are available at the local government level.

As related to cultivation facilities, production facilities, or laboratories, if there were a closure or revocation of a certificate or if there were not a sufficient number of these establishments to provide adequate supply of product, this may be open ended.

Mr. Markowitz:

Section 26, subsection 9 states that there must be a plan that includes a description of an electronic verification system. Is there going to be access to a general database developed by the State regarding the number of patients, patient information, and the product that has been dispensed to the patient? Otherwise, is this something that will be developed by each jurisdiction?

Ms. McDade Williams:

The burden is on the State to have an electronic verification system, not the establishments. It is our intent to have a web-based system. We need to discuss this issue with our Deputy Attorney General to determine if this section needs to be revised. We will get clarification on this matter. If we need to make a technical revision, we will.

The inventory system is the responsibility of the establishments, while the electronic verification system is the State's responsibility.

Mr. Markowitz:

Section 26, subsection 8 requires a plan for testing and verifying medical marijuana. Is it required that the medical marijuana be sent to an independent testing laboratory? If the establishment has a laboratory that is staffed properly with staff that has qualifications equal to an independent testing laboratory, would the establishment be in compliance to meet this requirement?

Ms. McDade Williams:

The law requires that any facility testing medical marijuana must be certified as a medical marijuana establishment. The requirement for testing is that a certified, independent testing laboratory to which we have issued a certificate conducts the testing.

Mr. Markowitz:

Would the State issue a certificate to a laboratory that was owned by a dispensary or cultivation facility? In other words, if I hire a scientist that complies with all the requirements, may the testing be performed internally?

Ms. McDade Williams:

No. There cannot be any affiliation between a laboratory and a cultivation or a production facility or a dispensary. We have to maintain a separation between a laboratory and the other establishment types.

Mr. Markowitz:

How are we supposed to comply with the law if an independent testing laboratory has not been licensed upon the expiration period of the application process?

Ms. McDade Williams:

We anticipate receiving applications from laboratories, and there will be laboratories that can perform testing.

Mr. Gale:

Section 28, subsection 1 addresses the ranking of applications. If an applicant applies for cultivation, dispensary, and production facilities, will each sub-application be reviewed and compared to like facilities on a statewide basis?

Ms. McDade Williams:

Each application will be evaluated and ranked separately. There is a possibility that a portion of an application could be approved and another portion not be approved because of the ranking.

Mr. Gale:

So, if an applicant applies for more than one certificate, that application will not be compared to similar applications where the applications are for similar establishments.

Ms. McDade Williams:

Dispensaries are limited in number in most jurisdictions. We will rank all applications that we receive.

Cultivators will have their own set of criteria. Production facilities will have their own set of criteria. If there is a limit on the number of cultivator or production facilities, we will need to rank applications based on the limits set.

Mr. Gale:

Will applications from Clark County be reviewed separately? Will applications from incorporated Las Vegas be reviewed separately? Will applications from North Las Vegas be reviewed separately? Will applications from Henderson be reviewed separately? Will these applications be grouped together as Clark County applications?

Ms. McDade Williams:

We will review the applications separately. It is essential that the local governments decide whether establishments will be allowed in their jurisdictions. This will allow counties to redistribute the establishment percentages. If there is no redistribution of the percentages, we will revert to what we believe is the county's percentage and rank within each of those jurisdictions.

Sharlene Lewis:

Is the request for qualifications the same as the letter of intent?

Ms. McDade Williams:

The option to submit a letter of intent has been replaced in the current version of the regulations. At this point, we have a solicitation that will be announced 45 days before the 10-day application

window is opened. We have further delineated criteria that allow us to perform the ranking for applicants where there are limits. There is no longer a letter-of-intent provision.

Ms. Lewis:

If the City of Las Vegas has not yet decided to allow establishments, but we go through the approval process with the State and then the City of Las Vegas decides to approve, does the application first go through the State and then to the local jurisdiction for approval?

Ms. McDade Williams:

When we solicit applications and open the 10-day window, all the applications received will be ranked based on the regulations. If a jurisdiction makes a decision after that time that they will not accept, for example, dispensaries, we have to honor that decision. In this scenario, the local jurisdiction would then deny the application, and we would follow up with a subsequent denial. We will have allowed, if there is space for an applicant, for the applicant to attempt to relocate.

Ms. Lewis:

Does the liquidity requirement apply to each establishment type?

Ms. McDade Williams:

That is correct.

Ms. Lewis:

So, if one company were going to have three establishment types, would the company have to provide proof of \$750,000 in liquidity?

Ms. McDade Williams:

That is correct.

Barry Stieb:

I have concerns about keeping ownership within the State. I have read many articles about large California corporations coming into the State to set up operations. Will there be any additional weight given to those individuals who have resided in the State longer or to permanent residents?

Ms. McDade Williams:

The regulations do not specify that ownership must be in- or out-of-state. This criterion will not be used in the evaluation of applications. It is essential to understand each aspect of the regulations and respond appropriately.

Mr. Westom:

As we are reviewing applications, we will comply with the regulations and NRS 453A.

Michael Levinsohn:

Currently, there are a set number of allowed dispensary certificates. It appears that the number of cultivating and processing facilities has not been determined. To what degree will the ownership of cultivating and processing facilities be factored into the overall percentage of ownership?

Ms. McDade Williams:

We believe it will be 10 percent of the entire universe.

Dan Schinhofen:

I am a Nye County Commissioner. We are working on our zoning and licensing. I have heard that the April 1 date for applications has been delayed.

Mr. Westom:

We plan to present the regulations to the SBOH in March, and we anticipate that the regulations will be adopted during the SBOH meeting. This will fulfill our requirement as stated in SB 374 for the Division to have its regulations in place.

The timeframe for accepting applications has not been set.

Mr. Schinhofen:

If Nye County has its zoning in place by mid-April, is it true that the individuals who are interested in opening establishments would not miss the application period?

Mr. Westom:

It will be helpful to establishment applicants if you have your local requirements ready in mid-April.

Mr. Schinhofen:

Are you saying we will receive a 45-day warning of when you will accept applications?

Mr. Westom:

That is correct.

James Barlow:

My question pertains to sections 13 and 5. Both sections refer to processing something other than an inhalable or injectable product. Do these sections mean that a cultivator could process down their products into not only the bud form, but into a resin-form product for smoking?

Ms. McDade Williams:

I do not believe that is what these sections mean. A cultivator cultivates. Anyone that wants to alter a product would have to do so through a production facility.

Mr. Barlow:

An infused product would allow one to produce oil. If that oil was to be only smoked, is that something that a cultivator could do?

Ms. McDade Williams:

This is something the law does not envision. The law states that a cultivator grows and that a production facility performs any alterations. If one wanted to have cultivation and production facilities, an application would need to be submitted for both facility types in which the applicant states how these activities will be carried out. Separate certificates would be required for each operation.

Jeff Harrison:

Have there been any regulations that have been promulgated that address the initial inventory or stocking of a dispensary? Will that product have to come from within the State?

Ms. McDade Williams:

It will not be legal for product to come from anywhere other than a Nevada-certified facility.

Mr. Harrison:

Does that provision also include infused or edible products?

Ms. McDade Williams:

That is correct. Edible and/or infused products need to come from a Nevada-certified facility.

Mr. Harrison:

There are existing delivery services in the State. How will this be considered during the application process?

Ms. McDade Williams:

Delivery services currently operate outside the limits of the law. Delivery is limited to a patient in a limited amount or from a cultivation or production facility to a dispensary or from an entity to a laboratory. A delivery service will not be licensed separately because there is no provision in State law to allow for delivery services.

Mr. Harrison:

Will delivery services be frowned upon during the application process?

Ms. McDade Williams:

The only criteria that we will measure relates to the criminal background checks. Applicants must ensure their application clearly identifies a model that works within the legal framework.

Robert Summers:

Have staff positions been filled? If not, when do you anticipate the filling the staff positions?

Mr. Westom:

There are 12 positions authorized for this program; however, no positions have been filled to date. We will be using a staggered approach to fill these positions. We will first bring on staff for the application and review process. The remainder of staff will be brought on as facilities are being built and inspections are required. Open positions will be posted on the Human Resources Management site as positions become available.

Unidentified Caller:

Is there a separate license for concentrates and oils manufacturing?

Mr. Westom:

There will be an application and certification process for facilities that produce edible and infused products.

Steve Fox:

What is your interpretation of NRS 453A.326 regarding monopolistic practices? The NRS 453A.326 indicates that no one person shall have greater than 10 percent of the establishment certificates. How will this be measured? Would that be for majority owners or any interest in an establishment?

Mr. Westom:

We will evaluate that issue as applications come in. We will need to discuss issues that arise with our Deputy Attorney General to ensure we have the appropriate interpretation of the statutes.

Ms. McDade Williams:

Mr. Westom is correct. Issues such as this will be decided on a case-by-case basis. We will add ownership interest across multiple applications.

Mr. Fox:

You said you would decide on a case-by-case basis but then you also said that you would add up ownership. Can you clarify your statement?

Ms. McDade Williams:

If one has 5 percent or greater ownership, it must be disclosed. We trust that applicants will identify the percentage of ownership. The percentage ownership becomes cumulative over multiple applications.

Chris Hempel:

Section 26, subsection 4 pertains to tax information. Is each person listed on the application required to provide tax information? Does this information need to come from an accountant?

Ms. McDade Williams:

Applicants should keep in mind that this section of the application would be ranked. We will not be providing advice on what information to include in applications. It is the applicants' burden to provide the required information.

Shane Johnson:

Section 26, subsection 10, paragraph (b) states that, if the applicant is relying on funds from an owner or partner, evidence must be submitted that a person has unconditionally committed funds for use by the applicant. Can you clarify if you will be including investors in this provision?

Ms. McDade Williams:

The term "partner" was revised to "board member" in the regulations returned from the LCB. This is consistent with the verbiage of the statutes.

Mr. Johnson:

I am assuming that applicants applying for an MME will have an equity investor that wants to invest in the business. Can investors commit funds unconditionally?

Ms. McDade Williams:

That is correct.

Mr. Johnson:

Regarding the anti-monopolistic behavior and the 10 percent cap on ownership of MMEs in a given jurisdiction, prior to today, it seemed clear to me that was in reference to dispensaries. Now, I am confused about this issue. For instance, in Douglas County, there can be only one dispensary. The moment someone applies to open a dispensary and that same person applies for a cultivation facility, that person would automatically have greater than 10 percent ownership.

Mr. Westom:

There are not 100,000 residents in Douglas County, so that section would not apply.

Mr. Johnson:

In Washoe County, would there be a bias against a seed-to-sale operation because one could have cultivation, production, and dispensation facilities?

Mr. Westom:

We will analyze issues such as this as the program progresses. At this point, your hypothetical is too complicated to answer.

Ms. McDade Williams:

This matter is driven by NRS 453A.326.

John Gezlin:

Section 26, subsection 3, paragraph (a) states the applicant must have \$250,000 in liquid assets that are unencumbered and can be converted within 30 days after a request to liquidate such assets. What are the Division's parameters for the request to liquidate? What would trigger that request?

Mr. Westom:

These are among the topics for which we are developing responses. We do not have an answer to the question at this time. It will be of importance that applicants demonstrate \$250,000 in liquid assets.

Mr. Gezlin:

If an applicant has \$250,000 in liquid assets, will those assets have to be kept in an account in anticipation of this request, or will the applicant be able to use those assets to set up an MME?

Mr. Westom:

Applicants must show \$250,000 in liquidity on applications. This requirement allows us to ensure businesses are appropriately funded.

Mr. Gezlin:

The "request to liquidate" seems nebulous. I am unclear as to why that language is included in this section.

Ms. McDade Williams:

The Division will not be requesting liquidation. The importance of this provision is that liquid assets can be converted within 30 days after a request to liquidate. This demonstrates that assets can be liquidated—that is the key.

Mr. Gezlin:

Are you saying a facility has the ability to use those funds?

Ms. McDade Williams:

Correct, within 30 days of a request.

Adam Mintz:

My concern pertains to cultivation permits and how the Division will look at those permits. Earlier, "variety" for the marketplace was discussed. What is the Division's definition of variety? Will the Division be looking for high CBD or THC, or different types of strains?

Ms. McDade Williams:

We do not have a preconceived notion. We are aware that some entities will have specialized products. It is our obligation to ensure that products are beneficial for the patient population. We are not soliciting anything—we are taking this on a case-by-case basis depending on what is identified in applications.

Walter Marting:

It was mentioned earlier that 60 is the cap for dispensaries but that, if there were a revocation or if someone dropped out of the running, the Division would take action to ensure that slot was filled. How long will this cap be in place?

Ms. McDade Williams:

The cap on dispensaries is a result of the legislation. The 2015 Legislative Session will begin soon. If there is a need to revise the cap, I presume it will be addressed during the Session. If the cap were increased in the future, we would have a different set of criteria. If the Legislature does not change the cap, the Division does not have the authority to change the cap.

Mr. Marting:

Regarding the application, is a doctor required to be an advisor to a dispensary?

Ms. McDade Williams:

No. That provision was eliminated.

Mr. Marting:

Will you be addressing initial inventory sourcing?

Ms. McDade Williams:

The law allows for some purchasing from existing growers. Beyond that, the expectation is that any product in a Nevada dispensary comes from a Nevada cultivator.

Mr. Marting:

Would the cultivator have to be certified?

Ms. McDade Williams:

Correct.

Mr. Marting:

A private grower would not necessarily be certified. The initial stocking could have a component that is not...

Ms. McDade Williams:

The regulations state, if someone chooses to buy from an existing grower, that the product be identified; however, keep in mind that there are limits to what existing growers can possess. Someone who buys from an existing grower needs to document the purchase. We would make a decision based on that documentation.

Mr. Marting:

Do you need that as part of the application?

Ms. McDade Williams:

Yes.

Unidentified Caller:

Are you saying that all the medical marijuana grown in the State will be of a Nevada-originated strain?

Ms. McDade Williams:

Dispensaries must buy product from a Nevada-certified facility.

Unidentified Caller:

For start-up facilities, is there any discussion about where they will get the original strain?

Ms. McDade Williams:

No.

Unidentified Caller:

You are under the assumption that every strain developed will have to originate from a Nevada grower under the current scheme.

Ms. McDade Williams:

Operators will have to demonstrate where the inventory was obtained. Inventory must be obtained from a Nevada source.

John Sutton:

Earlier, the cap on dispensaries was discussed. You have articulated sort of a closed-in system. There could be a situation where a license was revoked or where an entity goes out of business. There was also discussion about creating a mechanism to replace that entity. Will the timing to replace an entity correlate to the 10-day window, or would there be immediacy in terms of replacing that entity?

Ms. McDade Williams:

There are two issues at play. First, we will be soliciting applications this year; we will rank them and send them to local governments. If an entity were issued a provisional certificate by the Division, the applicant would then go to the local jurisdiction; if they could not comply with or were denied by the local jurisdiction, the Division would move to the next ranked applicant. Once the application period is closed and there are a sufficient number of establishments, no additional slots will be filled this year. Second, if there were a vacancy in 2015, the Division would open a new 10-day window for solicitation of new applications; the Division will not revert to applicants for 2014.

Mr. Sutton:

Are you saying that the Division, in the event of a vacancy, will wait until the next year to open an application period?

Ms. McDade Williams:

This is not a black and white process. It is a bit easier to make the decision with regard to dispensaries if one has been denied and we know there is an open slot. For other MME types, we will have to decide on a case-by-case basis. The Division will always base its decisions on fairness to ensure there is an opportunity for interested parties to compete.

We have stated in our regulations that, if someone surrenders their certificate, individuals could not apply or reapply until a new application period is opened.

Mr. Sutton:

We intend to open a robust seed-to-sale operation. In terms of distribution, it is our preference to go through our own MMEs. Some MMEs may have difficulty in obtaining product, depending on the number of cultivation facilities, because product must be obtained in Nevada. Would the State ever consider mandating that cultivation facilities with excess inventory sell product to MMEs that do not have a cultivation facility?

Ms. McDade Williams:

The Division does not have the authority in that matter. The Division does have the authority to control overall production.

A dispensary-only applicant needs to identify how product will be maintained. The facility must be operational within 18 months. There is no limit in the regulations or in the statutes on any cultivator selling to any dispensary.

Mr. Westom:

We will move to the next agenda item. I will give an overview of sections 33, 34, and 35.

Mr. Marting:

Section 35, subsection 1, paragraph (a) states that, if there is a transfer of 10 percent interest, surrender of a certificate is triggered. If there are two owners of an existing MME, one with 80 percent interest and the other with 20 percent interest, and the owner with 80 percent interest wants to sell 10 percent to the 20 percent owner, does this trigger the surrender provision?

Ms. McDade Williams:

I believe this provision applies only to outside the existing ownership.

Mr. Marting:

That is what I envisioned, but it does not state that in the provision.

Ms. McDade Williams:

Percentage interest could be transferred within the internal ownership; however, if a percentage interest were being transferred to an individual outside the existing ownership, the certificate would have to be surrendered.

Mr. Sutton:

Regarding section 33, subsection 1, will there be a process in place to verify in real time or in advance the identity of the inspector or auditor? This would prevent someone gaining access by using a false identification or an individual having an entry point for criminal activity.

Mr. Westom:

Division inspectors entering facilities will have badges. In addition, there would always be the option to contact the Division to verify the identity of the inspector.

Mr. Sutton:

These days, a replica of a badge is very easy to fabricate. Perhaps some sort of photo distribution in advance of inspections would be helpful.

Mr. Westom:

That may be feasible.

John Sande:

During the workshop of December 23, 2013, the term “fully operational” was discussed. Will a cultivation facility be considered fully operational at the time it is growing or at the time it is making wholesale transactions? How will the Division determine when a facility is fully operational? Should facilities send notice to the Division stating when the facility is fully operational?

Mr. Westom:

In terms of cultivators, if the facility is operating and all the requirements of the regulations are being implemented, I would consider that operational. That is my perspective at this moment.

Mr. Sande:

Section 35, subsection 1, paragraph (a) refers to 10 percent of the “stock” of an MME. This does not contemplate an individual being in a limited liability company with partnership interests. Perhaps a technical change should be made to allow transfers under these circumstances.

Section 35, subsection 1, paragraph (b), subparagraph (1) states that, if there is a change in location, one must go through an approval process. A facility may want to determine what the demand is before expanding the operation. For instance, would this apply to a cultivator that starts out at 10,000 sq. ft. with the ability to expand to 30,000 sq. ft.? Would this provision be triggered? Does this provision only refer to the physical location?

Mr. Westom:

This section refers to changes in location. Each situation will be considered on a case-by-case basis. The focus of this provision is changes in location.

Mr. Sande:

This section says that one must surrender its MME registration. The penalty is great if there is a misinterpretation. Perhaps there should be a technical change to section 35 to include the term “physical location” to avoid misinterpretation.

Ms. McDade Williams:

I agree. Perhaps we can specify that we are referring to the address, but “location” means the approved location. Section 35, subsection 2, paragraph (a), subparagraphs (1) and (2) allow for certain situations, if prior approval was obtained, under which the physical address could be changed. There are limiting conditions under which an MME could move. For example, if an MME was approved, and now the owner is looking to expand, the expansion would be a different entity based on the original application. In this example, the owner would have to reapply during a new application period.

Mr. Gale:

During the workshop of December 23, 2013, many people expressed concerns about section 35. There were suggestions that the language around surrendering registration certificates in section 35, subsection 1 was onerous. The preferred procedure would be that the MME would be prohibited from transferring ownership unless the proposed transferee submitted applications to the State for approval.

Section 35, subsection 1, paragraph (a) also includes the word “and” before paragraph (b). That word between paragraphs (a) and (b) should be changed to “or.”

Ms. McDade Williams:

We will take your statements under advisement.

Mr. Westom:

I will give an overview of sections 36 through 41.

Kimber Luciano:

Is there a recognized standard for the training that is to be provided? Is there a training facility in the State that can provide this training? What is the standard for obtaining this training?

Mr. Westom:

There is not a standard at this time. The establishments have the responsibility to develop the training for agents and the four different establishment types.

Ms. Luciano:

Is there a set of rules or guidelines so individuals can obtain education through a variety of cannabis universities? Would obtaining certification from an online source be acceptable?

Mr. Westom:

There is not a set of guidelines. This is a new program and, over time, the Division will determine what is appropriate.

Ms. McDade Williams:

This is an issue pertaining to each individual applicant. For example, if a dispensary decided they were only going to hire individuals trained at a cannabis university and stated so on their application, this would be the dispensary's standard. The Division would inspect to that standard. In this same scenario, if the dispensary then hired someone who was not trained at a cannabis university, the dispensary would not be consistent with the application.

Each establishment will need to identify acceptable training for its staff to ensure the regulations are met and the information submitted on the application is consistent with the training.

Ms. Luciano:

As far as the criteria for issuing licenses, would any education they obtain be acceptable to the Division?

Ms. McDade Williams:

When an applicant moves forward, the requirements for an applicant are specified in the regulations. Applicants have the obligation to demonstrate how they meet certain components related to the applications. In addition, there are policies and procedures for which establishments must adhere.

Mr. Westom explained the minimum expectations the Division has regarding staff trained to work in establishments. It is up to each establishment to determine what the training for staff will be. The Division is not stating what is acceptable or unacceptable. Establishments must meet the minimum requirements in the statutes.

Ms. Luciano:

Are you saying that the establishment must identify their actual business plan and that business plan must be followed consistently?

Ms. McDade Williams:

Correct.

Ms. Luciano:

Regarding the issuance of agent cards versus medical marijuana users' cards, if a medical marijuana user has a card, may that card then be converted to an agent card?

Mr. Westom:

Medical marijuana patient cards will not be converted to agent cards.

Ms. Luciano:

Is it required that one have an agent card prior to submitting an application for an MME?

Mr. Westom:

No.

Ms. Luciano:

If a current user is authorized to cultivate their own medical marijuana and they are applying to operate an MME, will they be allowed to sell their stock to their facility?

Mr. Westom:

Yes, there is a provision addressing that issue.

Michael Betts:

Hypothetically, for an integrated system with a dispensary, cultivation, and production facility, would those working in the cultivation portion of the establishment need to obtain a registration card for the other establishment types? Will the Division issue multiple cards to individuals?

Mr. Westom:

The statutes require different cards for those working in multiple areas of the operation. We are exploring the opportunity to issue agent cards for multiple operations.

Ms. McDade Williams:

The intent of the law is to allow the Division to know who is authorized to be in an establishment at any given point in time. Although one might have a vertically integrated operation, we are allowed to collect separate card fees. A person could potentially work in the three areas of a vertically integrated operation; however, the person would have to pay three separate fees to work in each aspect of the operation.

The Division is striving to reach a point where it can issue one card that verifies a person is allowed to work in all aspects of an operation. The Division will not issue a card to an agent and that agent be allowed to say they are approved to work in any MME—this is not acceptable under the law.

Mr. Markowitz:

Section 36, subsection 3 explains the auditing requirements. There is no timeframe stated regarding the completion of an audit even though section 36, subsection 2 states that a copy of a financial statement must be submitted with its renewal application. Is there a timeframe?

Mr. Westom:

That information needs to be submitted with the renewal application; the timeframe would be for the period the establishment was in operation.

Mr. Markowitz:

Technically, I would not be able to comply with a certified audit until after close of business for that particular year.

Mr. Westom:

Correct.

Mr. Markowitz:

How can one provide a year-end audit in time for the renewal period?

Mr. Westom:

The Division does not have a date for renewal periods at this time; however, the audit results would be for the previous year.

Mr. Markowitz:

Will renewal periods run on a calendar basis or on a licensing basis?

Mr. Westom:

Renewal periods will be consistent with the 10-day period as specified in the regulations. Renewal periods will be conducted on an annual basis; at this time, we do not have the dates.

Mr. Markowitz:

Will an operation that currently has a certificate be allowed to operate during the renewal period?

Ms. McDade Williams:

The audit requirement is for the previous year or the portion of the year in which the establishment was in operation. The renewal period will be based on when the Division actually issues the certificate.

Mr. Markowitz:

During that renewal period, I will have a window in which to have an audit performed. Will I be allowed to continue to operate while the renewal is being processed?

Ms. McDade Williams:

Correct; you will be able to continue to operate while we process your renewal application. Establishments do not have to cease operations while going through the renewal process.

Mr. Markowitz:

Section 37, subsection 1 pertains to reasonable inspection requirements. Will there be requirements and standards for MMEs to comply with sanitary and safety conditions within the facility?

Mr. Westom:

Yes. Those issues are addressed in the regulations. We will address those sections at the next stakeholder meeting.

Mr. Johnson:

Section 40 pertains to obtaining and renewing an MME agent registration card. There is an exception for a person who performs consulting services. Does “consultant” include persons who would provide services by an outside party (e.g., plumbers, electricians, construction workers, contractors)? I see the need for persons such as this to come into an MME. Would they need to be accompanied by an agent?

Mr. Westom:

They would need to be issued a visitor badge.

Mr. Johnson:

Is it envisioned that these people would be considered consultants?

Mr. Westom:

That is my understanding.

Ms. McDade Williams:

We will make that determination at the point of inspection. If someone has been declared a consultant, but that the person is in the facility on a routine basis, that person would be considered an agent.

Mr. Mintz:

Section 41, subsection 6, paragraph (d) references drying and curing procedures. A number of cannabis patients use raw cannabis before it is dried and cured—this is referred to as “juicing.” The leaves have an abundance of THCA [tetrahydrocannabinolic acid]. Does this section preclude a patient from using fresh cannabis for juicing?

Mr. Westom:

No. This particular section refers to agent training, and the section is not prohibitive as to what products might be possible.

Ms. McDade Williams:

The training materials would state the product is not dried.

Mr. Westom:

I will give a brief overview of sections 42 through 62.

Ed Alexander:

In section 52, will you establish a reasonable timeframe for quality assurance testing?

Mr. Westom:

This section applies to the use of certified laboratories.

Mr. Alexander:

I do not see anything in the regulations that specifically states the timeframe in which those tests must be performed.

Mr. Westom:

That is not specified.

Mr. Alexander:

If there is potentially one laboratory in northern Nevada, ten facilities, and a myriad of cultivators, there is potential for inundating that laboratory. This could lead to weeks passing before quality assurance testing could be performed.

Mr. Westom:

It is the Division's hope that principles of the free market will prevail. If a need is identified and there is not enough capacity, there will be business entities that see the business opportunity and supply will meet the demand.

Mr. Alexander:

Section 54, subsection 3, paragraph (d), subparagraph (6) indicates all nonorganic products must be listed. May I assume that organic products do not have to be listed?

Mr. Westom:

I need to reconcile this section with section 70 to ensure we have not created a problem. In short, however, the Division will need to review the products being used whether they are organic or nonorganic.

Mr. Alexander:

Section 56 addresses electronic verification methods. In the event the system crashes or the State website is down, what provisions do you envision for non-electronic verification? Would businesses be effectively shut down until the problem is corrected?

Mr. Westom:

We hope there will be enough levels of redundancy so this will not be an issue. We have had discussions that, if something like this were to happen, establishments would have their portion of the inventory verification system and inventory would continue to be verified.

Ms. McDade Williams:

Part of that redundancy is the responsibility of the establishment. In addition, cardholders are responsible for purchasing only what they need to purchase. Should something like a system failure happen and the Division moves forward with a contingency plan, there could be

consequences if it is determined that a cardholder has gone from one dispensary to another purchasing more than what they need.

Mr. Alexander:

My point is that, if our system went down and we were going to prepare handwritten documentation, we would enter the information upon the restoration of the system. Would that be an acceptable practice?

Ms. McDade Williams:

We would issue guidance of our expectation should something like this happen.

Mr. Alexander:

Do you intend to have a provisional plan in place?

Mr. Westom:

Yes. We are developing a plan now.

Mr. Gezlin:

Section 53 states that entry into an MME is limited to four categories, one of which is one who holds an agent registration card. Section 55, subsection 2, paragraph (a) states that, to be an officer or board member, one must obtain an agent registration card. Does that requirement extend to the owners?

Mr. Westom:

Yes.

Megan Salcido:

Throughout the regulations, it is stated that local government authorities may be on the premises without visitor cards. Section 53, subsection 1, paragraph (d) states, "a person inspecting the medical marijuana establishment pursuant to section 33 or section 37 of this regulation." Section 33, subsection 1 specifies that the Division may at any time inspect facilities. Section 33, subsection 4 references public safety inspections required by State and local jurisdictions. May I assume this reference authorizes the presence of local authorities without a visitor card? Otherwise, is this something you envision local jurisdictions incorporating into their own policies?

Mr. Westom:

The intent was to include local government inspections.

Ms. Salcido:

Section 37, subsection 2 references complaints and gives the Division the authority to conduct investigations into complaints, but I do not see any authority for local governments to conduct investigations of complaints received. Do local jurisdictions need to contemplate including this in their local policies?

Mr. Westom:

Section 37 was written with the Division in mind. Local governments need to develop their own requirements.

Ms. McDade Williams:

The Division made the decision not to write anything in the regulation that a local government already has within their own authority. Local ordinances would need to specify the local needs.

Mr. Alexander:

Will inspectors be subject to the facility's best practices? For instance, if an inspector enters a cultivation facility, and the cultivation facility has a clean-room practice, will the facility be able to enforce its practice before the inspector is allowed to inspect? I would hate to have an inspector bring pests into a cultivation facility.

Mr. Westom:

The inspectors entering facilities will be appropriately trained individuals. They will comply with the facility requests. For example, if the facility requires that gloves be donned or that hair be restrained, inspectors will comply.

Margo Cline:

What are the criteria for disposal of unused medical marijuana?

Mr. Westom:

We will discuss that in more detail during the February 24 stakeholder meeting. Disposal would be part of inventory control, and material would have to be rendered unusable. Disposal will also be subject to local ordinances, and State and federal law.

Ms. Cline:

What is the quantity of medical marijuana that needs to be tested?

Mr. Westom:

We will address that issue during the February 24 stakeholder meeting.

Ms. Cline:

Will the electronic verification system be integrated with other states?

Mr. Westom:

In concept, that would be good. Initially, we do not foresee that all the states that allow medical marijuana will have systems with which we can integrate. There will be procedures in place for reciprocity.

Ms. McDade Williams:

In 2016, the provisions for non-resident cardholders will change to state that if the other state does not have electronic verification we will not honor the non-resident card. Other states would

be obligated to have some sort of verification system. If they do not have a system, non-residents would be ineligible to purchase.

Ms. Cline:

For states that do not have a system, will the Division figure out another means to verify eligibility?

Ms. McDade Williams:

No. In 2016, the law does not require us to serve non-residents.

Ms. Cline:

How is the Division going to assign patients to dispensaries?

Mr. Westom:

The Division will not be assigning patients to dispensaries. Patients will choose their dispensary.

Ms. Cline:

It is my understanding that patients would be assigned to a dispensary but could change dispensaries after 30 days.

Mr. Westom:

Patients can choose a dispensary, but they can only change dispensaries after 30 days. Patients may declare a dispensary and have it printed on their medical marijuana patient card.

Ms. McDade Williams:

The law does not restrict patients to buy only from a declared dispensary.

Mr. Marting:

Earlier, the difference between consultant and contractor in section 40 and agent cards were discussed. Section 55, subsection 3, paragraph (a) states that, if one is an officer or board member or one is providing services, an agent card is required. I need clarification on this.

Ms. McDade Williams:

A consultant who provides professional services is exempt, not a contractor.

Mr. Harrison:

If we are applying for a dispensary and cultivation facility, do we submit two separate applications?

Mr. Westom:

Yes. There are separate applications and separate fees.

Mr. Sande:

NRS 453A.700 mentions the confidentiality of applications and supporting documentation. Is the entire application confidential? Otherwise, should applicants redact portions that may contain confidential or trade secret information?

Mr. Westom:

Portions of the applications will be confidential. Applicants should not redact information on the applications since the Division will be reviewing the application information.

Mr. Sande:

Should we submit a portion of our application under seal so that the Division can review it? Do we need to be concerned about applications being posted on the website?

Ms. McDade Williams:

We do not intend to post applications on the website. In the future, we intend to post the dispensary name, location, and contact information so patients can find the product they need. On our website, we will not disclose the addresses of cultivation or production facilities or laboratories.

The Division has the obligation to keep confidential any trade secrets. In the event we were to receive a public records request, we need to ensure this information is not released. We intended that our regulations identify those records that we should keep confidential. If there is still some grey area, please provide comments and advise us where you believe there might be potential for information to be released. Our intent was not to allow the release of certain pieces of information that might be confidential.

Mr. Sande:

In section 51, subsection 1, what is the scope of the Division's review of advertising material? Would the Division need to review and approve such things as messages transmitted on social media?

Mr. Westom:

We will review names and logos. Section 51, subsection 2 addresses the Division's requirement for approval of signs and advertisements. This is actually being developed now. We are in consultation with the Secretary of State in terms of what is required for businesses. Conceptually, if you have examples of advertising, they should be provided to the Division for approval. If messages were transmitted on social media that are similar to those approved by the Division, those would be acceptable. If there were to be an entirely new media campaign with a new logo, the Division would need to review and approve the materials in advance.

Mr. Sande:

If an establishment were to offer a sale to military veterans, for example, would the content of advertising need to be approved by the Division?

Mr. Westom:

I cannot give you a specific answer at this time.

Mr. Sande:

Section 56 defines to whom an establishment can dispense product. In light of NRS 453A.364 and the change in 2016 regarding non-resident cards, perhaps a technical change could be made to include non-resident cards. Section 56 does not contemplate that as written.

Section 58, subsection 3, paragraph (b) requires confirmation of a log which must be available for inspection by an appropriate law enforcement agency. I do not have an issue with the language; however, under NRS 453A.700, records to law enforcement can only be provided to establish whether an individual is a cardholder. Do these two provisions conflict with each other?

Mr. Westom:

We will review that issue.

Karen Becker:

Section 53, subsection 2 states that a visitor badge must be obtained “before” entering the premises. I suggest changing that provision to state “upon” entering the premises.

Mr. Westom:

In other states, we saw establishments that have an entry way or foyer before patrons go into the establishment.

Ms. Becker:

I anticipated that visitors would be handled in the lobby of the establishment in the same way a patient would be verified.

Mr. Westom:

The intent of the language is that visitors would obtain a badge before entering the premises; however, we may need to clarify the language so that the provision is reasonable. The intent is that a visitor is issued a badge before touring the facility.

Ms. McDade Williams:

We have received some communications requesting revisions to the NRS. The Division is not in a position at this time to make any changes to the NRS.

There was a question regarding separate buildings. The Division has received clarification on this issue. The clarification was submitted through the Medical Marijuana LISTSERV; interested parties should review this guidance. In addition, we may use the Medical Marijuana LISTSERV to address other issues that were brought to our attention.

The meeting is adjourned at 1:01 p.m.

RESPECTFULLY SUBMITTED:

Sara Weaver,
Administrative Assistant

APPROVED BY:

Marla McDade Williams, Deputy Administrator

DATE: _____